



W.P.(MD)No.5303 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2024

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.5303 of 2017
and
W.M.P.(MD)No.4255 of 2017

G.George Jeyaraj

... Petitioner

/Vs./

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Finance Department,
Secretariat, Chennai.
- 2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai.
- 3.The Deputy Director of Health Services,
Sankarankovil,
Thirunelveli District.
- 4.The Assistant Treasury Officer,
O/o. The Assistant Treasury,
Opposite to Government Hospital,
Ambasamudram,
Tirunelveli District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for records relating to the impugned order issued by the third respondent in his proceedings in Se.Mu.Aanai Na.Ka.No.59/2017/A1 dated 15.02.2017 (served to the petitioner on 07.03.2017) and quash the same as illegal and consequentially to direct the respondents to revise the pension of the petitioner on the basis of the scale of pay of 9300-34800-4500.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates
For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

This writ petition has been filed challenging the recovery order dated 15.02.2017 issued by the third respondent.

2. The petitioner has challenged the impugned order on the following grounds:-



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(a) Violation of principles of natural justice, as according to the petitioner, no notice was served on him prior to passing of the impugned order;

(b) No reasons have been given in the impugned order for arriving at a sum of Rs.1,08,603/-, as the sum, which according to the respondents, has been paid in excess to the petitioner.

(c) A counter affidavit has been filed by the respondents reiterating the contents of the impugned order.

3. On the last hearing date, this Court directed the learned Additional Government Pleader appearing for the respondents to get instructions as to whether any proof is available in the files of the respondents to show that sufficient opportunity was granted to the petitioner before passing of the impugned order.

4. However, no proof has been produced by the learned Additional Government Pleader appearing for the respondents today. Therefore, the contention of the petitioner has to be accepted, since the impugned order does not reveal that prior show cause notice was issued to the petitioner



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prior to passing of the impugned order and it does not contain reasons as to how a sum of Rs.1,08,603/- has been determined as excess payment paid to the petitioner.

5. For the aforesaid reasons, the impugned recovery order dated 15.02.2017 passed by the third respondent has to be quashed and this writ petition will have to be allowed by granting liberty to the respondents to initiate fresh action against the petitioner as per the impugned order by issuing show cause notice as well as by calling for explanation from the petitioner and thereafter pass final orders on merits and in accordance with law, with regard to excess payments alleged to have been made to the petitioner.

6. For the foregoing reasons, the impugned order dated 15.02.2017 passed by the third respondent is hereby quashed and this writ petition is allowed. However, liberty is granted to the third respondent to initiate fresh action against the petitioner for the recovery of alleged excess payments made to the petitioner by adhering to the principles of natural justice and by giving reasons, incase it is found that



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excess payments were infact made to the petitioner. No costs.

Consequently, connected miscellaneous petition is closed.

29.08.2024

Index : Yes / No
NCC : Yes / No
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TO:

- 1.The Principal Secretary,
Finance Department,
Secretariat, Chennai.
- 2.The Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai.
- 3.The Deputy Director of Health Services,
Sankarankovil,
Thirunelveli District.
- 4.The Assistant Treasury Officer,
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Opposite to Government Hospital,
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ABDUL QUDDHOSE, J.

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Order made in
W.P.(MD)No.5303 of 2017

Dated:
29.08.2024